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IN THE
SUPREME COURT OF THE UNITED STATES

No. 71-364

JOAN S. MAHAN, SECRETARY,
STATE BOARD OF ELECTIONS, ET AL.,
Appellants,

v.

HENRY E. HOWELL, JR., ET AL,
Appellees.

No. 71-373

CITY OF VIRGINIA BEACH,
Appellant,

v.

HENRY E. HOWELL, JR., ET AL,
Appellees.

Appeal From The United States District Court for the Eastern District of Virginia

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BRIEF FOR APPELLEES, HENRY E. HOWELL, JR., ET AL

I. QUESTIONS PRESENTED

(a) Can an artificial allocation of citizens to a legislative district meet the constitutional requirement for equal representation?

(b) Where the Negro population constitutes a minority of an entire area, do single member districts unconstitutionally dilute the vote of such minority?

(c) Where a legislative body has twice failed to enact a constitutional plan of reapportionment, and where an election deadline is imminent, does a three Judge Court possess the discretionary power to decree a seasonable constitutional plan of reapportionment? 1/

II. STATEMENT OF THE CASE

The brief submitted on behalf of appellants, Joan S. Mahan, Secretary,

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1/ This brief filed in Cases 71-364 and 71-373 is limited to the propriety of the action of the Court below in ordering At Large elections for Three Senators from the City of Norfolk and a portion of Virginia Beach in order to diffuse the impact of a substantial military population.

State Board of Elections, et al, fails to comply with Rule 40(1)(e), requiring a statement of the case containing all that is material to the consideration of the questions presented and for that reason a completely independent statement of the case is here set forth.

A. PARTIES

(1) Appellees

The appellees, plaintiffs below, are all citizens of Norfolk, Virginia. Henry E. Howell, Jr., and Peter K. Babalas were, at the time of the filing of the complaint, State Senators elected from the City of Norfolk At Large and resided in the Fifth and Sixth Senatorial Districts, respectively. Angeline Fitzpatrick resided in the Sixth Senatorial District. Reverend Lawrence L. Craig resided in the Fifth and William K. Beach in the Seventh Senatorial District. Appellees will hereinafter be referred to as "VOTERS".

(2) Appellants

Appellants, defendants below, are Joan S. Mahan, Edgar A. Prichard and U.P. Joyner, Jr., the three members of the State Board of Elections; the Honorable A. Linwood Holton, Governor of Virginia; Terry H. Davis, Jr., James Griffiths, J. Hume Taylor, Jr., the three members of the Electoral Board of the City of Norfolk, Virginia; and John B. James, Donnell P.

Davis and Catherine Nixon, the three members of the Electoral Board of the City of Virginia Beach, Virginia. Appellants will hereinafter be referred to as "OFFICIALS".

(3) Intervenors

The cities of Norfolk and Virginia Beach intervened in VOTER's suit for the sole purpose of retaining the total number of inhabitants allocated to their respective cities by the census enumeration because of the economic effect the figures have on the allocation of federal funds, the City of Norfolk contending for an enumeration of 307,951 persons and the City of Virginia Beach for 172,106. Intervenors will be hereinafter referred to as "NORFOLK" and "VIRGINIA BEACH".

B. CONTROLLING FACTS

In 1960, a legislative-citizen study Commission was appointed by Governor J. Lindsay Almond, Jr., to recommend a plan for reapportioning the State Legislature. Governor A. Linwood Holton in 1970 recommended a similar type Commission, but, instead, the Privileges and Elections Committee of the Senate and House of Delegates handled the study. (Andrews, Depo.p.6-7).

The Senate Privileges and Elections Committee was to deal with the Senate and the House Committee with the House.

Initial meetings were held in June and July of 1970 and a sub-committee was constituted. There was no representation from Norfolk, Virginia Beach or Portsmouth on the Senate Privileges and Elections Committee.

The sub-committee decided upon the tentative new Congressional Districts. Four (4) State Senators were allocated by the sub-committee to each of the Ten (10) Congressional Districts and the incumbent Senators within the new Congressional Districts were invited to agree on a plan of reapportionment and redistricting of their Senate seats within the Congressional Districts.

NORFOLK and a portion of VIRGINIA BEACH were allocated Four (4) State Senators and Senator Hunter B. Andrews, as Chairman of the sub-committee, requested Edward L. Breeden, Jr., Senior Senator of Norfolk, to confer with the other three incumbent Senators, Howell, Babalas and Caton, as to their preference with respect to various plans, ranging from four Senators to be elected At Large from the new Second Congressional District to separate Senatorial Districts for each of the four Senators. (App. 121)

Senator Andrews' letter (Plaintiffs' Ex. 18, App. 160) stated that the Attorney General of Virginia had advised that adherence to mathematical exactness

was mandatory. 2/

The enumeration of the 1970 census fixed Virginia's total population at 4,648.494 persons, an increase of 681,545 persons, or 17.2% from the 1960 enumeration. (Plaintiffs' Ex. 14)

NORFOLK's total population was 307,951 persons. (Plaintiffs' Ex. 14) A breakdown of NORFOLK's population by race is 215,255 White persons, 87,275 Negro persons and 5,621 others. (Plaintiffs' Ex. 13, App.151)

The total population of VIRGINIA BEACH was 172,106 persons. (Plaintiffs' Ex.14) A breakdown of VIRGINIA BEACH's population by race is 154,828 White persons, 15,688 Negro persons and 1,590 others. (Plaintiffs' Ex. 13, App.151)

Each Senator in Virginia would ideally represent 116,212 persons.

The Senate Privileges and Elections Committee waited until February 1971, and when the Four (4) State Senators from the new Second Congressional District could not agree on a plan of redistricting for their area, the Committee made a decision to divide NORFOLK into Senatorial Districts and directed a staff member of

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2/ All of VOTERS' exhibits were introduced by stipulation. (App.120).

the State Division of Statutory Research and Drafting to run the District lines in a North-South direction, but to count all Naval Personnel assigned aboard vessels as if they resided in District Five. (Andrews, Depo.p.31) 3/

For the first time in history, NORFOLK was divided into Senatorial Districts Fifth, Sixth and Seventh, the Seventh District including 40,195 persons from a portion of Kempsville and Bayside Boroughs of Virginia Beach.

The Bureau of Census, for the purposes of economy and convenience delegated to the Navy the enumeration of personnel aboard ships home ported at NORFOLK and directed that the men be counted aboard the ships, even though they resided with their families in other areas of NORFOLK that would lie without Senatorial District Five and within the Sixth and Seventh Senatorial Districts. (Plaintiffs' Ex. 10, App.138-144).

The enumeration of naval personnel stationed aboard ships home ported at Norfolk was 36,693 and these men were

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3/ The ultimate District Lines approved by the Department of Justice are described in Senate Bill 125,Chapter 246 Acts of Assembly.(Joint App.31) The lines divide blocks,precincts and even lakes.

assigned to a census tract designated as 000999, the location of a series of ship piers. (Plaintiffs' Ex. 2, App. 124; Plaintiffs' Ex. 29, App. 287) 13,437 persons were enumerated ashore, but within the naval reservation, these persons living in various government quarters. These persons were assigned to census tract 0009. (Plaintiffs' Ex. 2, App.124)

The Commander in Chief, Atlantic Fleet Headquarters, uses a rule of thumb which indicates that Fifty Per Cent (50%) of the men assigned to Atlantic Fleet afloat units occupy housing ashore. (Plaintiffs' Ex. 6, App. 130)

On April 1, 1970, the Commandant, Fifth Naval District, constituted a housing survey by an approved sampling method survey technique. The total sample of 544 persons were allocated by zip code. (Plaintiffs' Ex. 10, App. 138-144) 4/

Professor T. J. Reed analyzed the official Naval Housing Survey results as of April 1970, the same month of the

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4/ Dr. Conrad F. Taeuber, Associate Director of the Bureau of the Census, approved the use of zip codes as a reasonable device for the approximation of resident localities. (Taeuber, App.219)

census enumeration and made a statistical determination that of the 36,693 persons enumerated by the Navy as being members of the crew of vessels home ported at Norfolk, Fifty-nine (59%) per cent or approximately 21,600 maintained local residences outside the Fifth Senatorial District, reducing the actual population of the Fifth District to 94.484 persons. (Plaintiffs' Ex. 9, App. 134-137)5/

5/ Professor Reed, of the School of Business Administration of Old Dominion University, had 30 years' experience in census and sample surveys. He had first worked for the Bureau of Census in the taking of the 1940 census and in 1967 he was one of thirteen persons in the nation appointed to the National Defense Executive Reserve Program and Census Activities by A.B. Trowbridge,Secretary of Commerce. Professor Reed was to serve as a back-up census authority in the event of a national catastrophe. (Plaintiffs' Ex. 21,App. 165; Plaintiffs' Ex. 23, App. 166.)

Mr. Bernard L. Michel, Management Assistance Officer for the Commandant, Fifth Naval District, had as one of his responsibilities the task of advising the Commandant regarding Naval personnel stationed at Norfolk, including the living habits of men assigned to the Atlantic Fleet. Mr. Michel states that only a small percentage of the approximate Fifty (50%) per cent of the members of crews of home ported vessels who live ashore, live within the Fifth Senatorial District. (Plaintiffs' Ex. 5, App.127)

Professor Reed determined that only about 8,450 men actually lived aboard the vessels on which they had been enumerated. (Plaintiffs' Ex. 9, App. 136)

Naval Regulations prohibit any campaigning on naval property, where over 50,000 of the 116,084 persons artificially allocated to the Fifth District were enumerated, and a violation of this regulation constitutes a federal crime. (Plaintiffs' Ex. 7, App. 131)

In implementing its overnight decision to create single member districts, the Senate Privileges and Elections Committee used the United States Census, which was performed primarily for the purpose of congressional apportionment. (Taeuber, App.214) No specific standards were established for the purpose of redistricting state legislative bodies.

(Taeuber, App.218)

Assistant Director of the Census, Taeuber, established that a principle of counting naval personnel aboard vessels was that the individual lived outside of the Fifth District and in a general area encompassed by the Fifth, Sixth and Seventh Districts. (Opinion of Court, Joint App. 20) 6/

The Senate had established its determination to allocate all home ported naval personnel to the Fifth District, notwithstanding knowledge of the artificiality of the count by reason of the distribution of seamen living with

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6/ Representative of home ported seamen who lived at home was Larry B. Wood of the Aircraft Carrier JOHN F. KENNEDY. He maintained a home in the Seventh District and was a registered voter of Norfolk. (App. 192-193.)

their families ashore. 7/

Following a hearing on May 24, the District Court postponed the statutory date for the Primary from June 8 to September 14, and gave the General Assembly until June 14 to enact a valid plan of reapportionment. The Court stated that the failure of the legislature to do so would require the Court to formulate a plan. The State failed to comply with the Court's order and after a second hearing on June 16, the Court was forced to reapportion the legislature, in view of the July 16 deadline for the filing of candidacies.

7/ VOTERS,Howell and Babalas,had presented evidence of Admiral Cobb (Plaintiffs' Ex. 6,App. 130) and Bernard Michel (Plaintiffs' Ex.5,App.127) to the Senate prior to its vote. The evidence was ignored. The evidence was further documented and implemented and filed with the Court prior to the Court's initial hearing,which was adjourned to allow the General Assembly to reapportion itself in a constitutional manner. Again, the Senate ignored the residential factor of a substantial number of military personnel when it passed Senate Bill 125. (Chapter 246,Acts of Assembly, Joint. App.31).

III. ARGUMENT

A. AT LARGE REPRESENTATION IS REQUIRED IN THE CITY OF NORFOLK IN ORDER TO HAVE CONSTITUTIONAL REPRESENTATION OF 50,120 NAVAL PERSONNEL

This Court in establishing the principle of "one person - one vote", brought to the nation a needed revitalization of representative government. Legions of legislative bodies have been reapportioned because of the consistency of this Court's decisions since Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362 (1964) and Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441 (1964).

Legislators soon learned that this Court would not tolerate any blinking of the principle of "one person - one vote". The burden was placed upon the proponent of any districting plan to justify deviations from equality. Wells v. Rockefeller, 394 U.S. 542, 89 S.Ct. 1234.

Neither NORFOLK nor VIRGINIA BEACH justified the substantial deviation from equality that characterized the legislative drawn Senate plan.

No evidence was presented by NORFOLK or VIRGINIA BEACH to contradict VOTERS' evidence that of the 36,693 naval personnel assigned to vessels home ported

at Norfolk, 21,600 maintained local residences outside of the Fifth Senatorial District and primarily in the area constituting Districts Six and Seven. 8/

Judicial recognition of "phantom populations" would constitute a reversal of the principle of "one person - one vote" and would violate the rights guaranteed to VOTERS under the Fourteenth Amendment.

8/ (Opinion of Court, Joint App.19)

"To do so,however,the entire count of 36,693 naval personnel 'home ported' at the U.S.Naval Station,Norfolk, were assigned to the Fifth Senatorial District. Factually, it is without dispute that only 8,100,or so, of such crewmen actually lived aboard the vessels which are assigned to a Census Tract within the Fifth Senatorial District.[6] The remainder,with their families,resides for the most part in the City of Norfolk,but to a considerable degree not in the Fifth Senatorial District.

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[6] Census policy allocates nearly all other individuals to the place where they reside."

The only national significance that can justify review of the lower court's opinion regarding Senate redistricting would be that the affirmance of the lower court decision would offer this court an opportunity to condemn once and for all artificial population counts as a device for evading compliance with VOTERS' constitutional rights.

So far as the instant case is concerned, NORFOLK has historically been a military city. Its naval establishment is reputed to be the largest in the world. Its military population, a substantial portion of which constitute family units stationed in Norfolk, need effective legislative representation to procure the same urban services required of native born Norfolkians; schools, police and fire protection, streets and highways, and, now, effective mass transportation.

The absurdity of single member districts in a military impacted area is underscored by consideration of what would occur if there were single member House Districts. The ideal House District is 46,484 persons and if all of the persons enumerated within the Naval installation were allocated to one House District, the Naval Operating Base would be entitled to a Delegate, and with a majority of the persons subject to military orders, there would probably be no candidate and, certainly, the voter participation would be minimal.

The unconstitutionality of the plan is further contributed to by Naval Regulation 5726.4A dated June 3, 1970 (Plaintiffs' Ex. 7, App. 131), which regulation prohibits solicitation of any type of political support on a naval shore installation and violation of this regulation constitutes a breach of 18 United States Code §1382, which constitutes each violation a misdemeanor and imposes a penalty of up to six months' imprisonment or $500.00 fine, or both.

The equal protection guaranteed by the Fourteenth Amendment to the Constitution of the United States of America will not permit senatorial candidates from a district to be politically muzzled with respect to over Forty Per Cent (40%) of the population allocated to their district.

The artificial assignment of sailors to ships instead of to the homes that they occupied with their wives and children while stationed at Norfolk was at war with the controlling principle of the Census Bureau counting people where they actually lived. (Taeuber, Depo. p. 39; App. 221-222.)

The conflict was created when the Census Bureau abandoned its primary responsibility to conduct a head count of citizens who had as their occupation service in the military and delegated the

task to the Secretary of Defense.

The Department of Defense, through the Navy, is structured to defend this nation and to service and supply ships and personnel that constitute the Navy. The Comptroller of the Navy took the easy way out and issued instructions for the commanding officers of each ship to designate a project officer who would certify the total number of personnel aboard the particular vessel 1 April 1970. Significantly, the instructions directed that dependents were to be enumerated where they resided. This created a house divided that would not be applicable to other heads of households.

Dr. Taeuber agreed that a commercial pilot when interviewed at a motel between flights would not be counted in the tract where the motel was located, but would be counted where his wife and children resided. (Taeuber, Depo. 30-31; App. 216,217)

VOTERS' position is that the Census enumeration for Virginia and NORFOLK was accurate, but the enumeration of naval personnel by the General Assembly in its experiment with multi-member districts was inaccurate.

B. THE NEGRO POPULATION OF NORFOLK CONSTITUTED A MINORITY IN EACH OF THE THREE PROPOSED DISTRICTS, UNCONSTITUTIONALLY DILUTING THE VOTE OF SUCH MINORITY

The lower court found that the unconstitutional allocation of all home ported naval personnel to one district, without reference to where they made their homes in the area was dispositive of the case and stated it was unnecessary to descant upon the other grounds urged by VOTERS in support of a unitary senatorial district at Norfolk. (Opinion of Court, Joint App. 20-21).

VOTERS presented evidence, briefs and argument on behalf of their contention that single districts could not constitutionally be drawn and make a majority out of the Negro minority.

The facts are that NORFOLK's total 1970 population was 307,951 persons and of this total 87,275 were Negro citizens.

Recent election history in NORFOLK establishes that the Negro minority has a significant influence in At Large elections.9/

9/ One of NORFOLK's seven delegates is a Negro and one of Norfolk's seven Councilmen is a Negro.

The voting citizens of the Thirty-One (31%) Per Cent minority vote constitute the margin of victory in any close election and all Senators and others running for public office attempt to be sensitive to their particular needs and seek their votes.

When the Department of Justice rejected the original District lines an effort was made to place as many of the Negro citizens as possible into the Sixth District, leaving a relatively insignificant number in Districts Five and Seven. The lines of District Six were drawn so as to prefer by race and color, which had the effect of diluting the influence of the Negroes remaining in Districts Five and Seven.

Instead of having the ear of three Senators in an At Large election, the minority would have the ear of only the one Senator who sought the votes of a significant minority in the Sixth District.

The Virginia Senate redrew its racially divided lines prior to this Court's opinion in Whitcomb v. Chavis, 403 U.S. 124, 91 S.Ct. 1858 (1971). In Chavis, this Court noted at 403 U.S. 143, 144, that it had summarily affirmed a three-judge District Court ruling in Burnette v. Davis, (245 F.Supp.241,245,E.D.Va.1965). There Judge Albert Bryan stated:

"* * * No line may be drawn to prefer by race or color."

The Senate single-member districts violated this holding.

In Chavis, 403 U.S. 144, 147, this Court reaffirmed the validity of multi-member districts.

In footnote 34 to the Whitcomb v. Chavis opinion, 403 U.S., 144,155, this Court approved the dicta in Wright v. Rockefeller, 376 U.S. 52, 84 S.Ct. 603, (1964) that any district created to favor on the basis of race or place of origin would be unconstitutional for it would deny equal protection to the disfavored race, be it Black, White, Puerto Rican, Mexican or otherwise. Justice Douglas in his dissent, which was cited in part by Judge Bryan in Burnette, was more pointed in his criticism of ethnic or racially favored districts. Justice Douglas stated at page 66 of 376 U.S.:

"* * * That system, by whatever name it is called, is a divisive force in a community, emphasizing differences between candidates and voters that are irrelevant in the constitutional sense. * * *

* * *

When racial or religious

> lines are drawn by the State, the multiracial, multireligious communities, that our Constitution seeks to weld together as one become separatist; antagonisms that relate to race or to religion rather than to political issues are generated; communities seek not the best representative but the best racial or religious partisan. Since that system is at war with the democratic ideal, it should find no footing here."

Judge Bryan in Burnette, 245 F.Supp. 245, cited with approval that portion of Justice Douglas' dissent, 376 U.S. 62:

> "* * * Rotten boroughs were long a curse of democratic processes. Racial boroughs are also at war with democratic standards."

Justice Douglas' dissent is now accommodated to by the majority opinion in Whitcomb v. Chavis, with the holding at 403 U.S. 156:

> "The District Court's holding, although on the facts of this case limited to guaranteeing one racial group representation, is not easily contained. It is expressive of the more general proposition that any group with

distinctive interests must be represented in legislative halls if it is numerous enough to command at least one seat and represents a majority living in an area sufficiently compact to constitute a single-member district. This approach would make it difficult to reject claims of Democrats, Republicans or members of any political organization in Marion County, who live in what would be safe districts in a single-member district system, but who in one year or another, or year after year, are submerged in a one-sided multi-member district vote. There are also union oriented workers, the university community, religious or ethnic groups occupying identifiable areas of our hetrogeneous cities and urban areas. Indeed, it would be difficult, for a great many, if not most, multi-member districts to survive analysis under the District Court's view unless combined with some voting arrangement such as proportional representation or cumulative voting aimed at providing representation for minority parties or interests. At the very least, affirmance of the District Court would spawn endless litigation concerning multi-member district

systems now widely employed in this country."

Reversal of the lower court's decree, which found that a multi-member Senatorial District was required by the peculiar characteristics of the NORFOLK area would, indeed, unnecessarily spawn endless litigation, which the federal judiciary system does not need or desire.

C. CONTINUED VIABILITY OF THE FEDERAL JUDICIARY REQUIRES THE AFFIRMANCE OF THE IMPLEMENTATION POWERS OF TRIAL COURTS UNDER THE CIRCUMSTANCES OF THIS CASE

The General Assembly of Virginia that undertook to reapportion the state legislature was acting under the mandate of a newly adopted amendment to the Constitution of Virginia, which required state reapportionment and congressional

reapportionment to be accomplished on the identical basis.10/

10/ Constitution of Virginia, Article II,Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 1971 and every ten years thereafter.

Any such reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV,Section 13, of this Constitution. (Emphasis Added)

The Attorney General of Virginia had advised the Senate Privileges and Elections Committee that any plan must adhere to mathematical exactness. This advice was relayed by Senator Andrews when he requested that Senator Edward L. Breeden, Jr., confer with the incumbent Senators in an effort to reach a mutually accommodating plan: (Plaintiffs' Ex.18, App. 160)

> "* * * We have had the advice of the Attorney General and in essence we must adhere to mathematical exactness. * * *" (Emphasis Added)

Notwithstanding this mandate, the General Assembly ignored it. Suit was brought and initial hearing was held on May 24, 1971. Pending elections were postponed to September 14, and the General Assembly given a second chance or until June 14 to constitutionally reapportion the legislature. On June 16, a second hearing was held and on July 2, fourteen (14) days before the filing deadline for the September Primary, the Court finding the plan wanting and the legislature reluctant, implemented its decree by reapportioning the General Assembly.

The Court could reapportion without being subject to the delay of a review by the office of the Attorney General of the United States. Conner v.Johnson,

402 U.S. 690, 91 S. Ct. 1760 (1971).

The citizen is entitled to the opportunity to cast his vote in an election untainted by an unconstitutional plan of apportionment.

The whole cloth of government can be eaten up by doubt, challenges and litigation when legislators are elected under an unconstitutional plan.

If the people of Virginia had been required to vote for a Senator representing an artificially populated district and malapportioned House districts, their mandate expressed in a constitutional amendment requiring mathematical exactness would have been thwarted and aborted.

This Court has consistently recognized the necessity of affirming the right of trial courts to fashion remedies where legislators have failed to reapportion according to federal constitutional requisites in a timely fashion, after having had

an adequate opportunity to do so. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362 (1964) 11/

11/ 377 U.S. at 585, 84 S.Ct. at 1393-4:

> "*** Remedial techniques in this new and developing area of the law will probably often differ with the circumstances of the challenged apportionment and a variety of local conditions. It is enough to say now that, once a State's legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan * * * As stated by MR. JUSTICE DOUGLAS, concurring in Baker v. Carr, 'any relief accorded can be fashioned in the light of well-known principles of equity.'".

The lower court's action in re-apportioning the General Assembly under the circumstances of this case was meet, right and just.

IV. CONCLUSION

For the reasons stated, it is submitted that the judgment of the Court below should be affirmed.

Respectfully submitted,

HENRY E. HOWELL,JR.
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REVEREND LAWRENCE L.CRAIG
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CERTIFICATE

I, Henry E. Howell, Jr., of counsel for appellees, a member of the Bar of the Supreme Court of the United States, hereby certify that three (3) copies of the foregoing Brief For Appellees, Henry E. Howell, Jr., et al, were on this 10th day of August, 1972, mailed to Edmund D. Campbell,Esquire, Counsel for appellees, Clive L.DuVal,II, et al, 1425 H. Street, N.W.,Suite 822,Washington,D.C. 20005; Stanford E. Parris,Esquire, counsel for appellees, Stanford E. Parris, et al., 4085 Chain Bridge Road, Fairfax, Virginia, 22030; Gordon B. Tayloe,Jr.,Esquire, Assistant City Attorney of the City of Norfolk, counsel for defendant-intervenor, City of Norfolk, 908 City Hall Building, Norfolk, Virginia, 23501; John Ashton, Esquire, counsel for defendant-intervenor, City of Virginia Beach, c/o Messrs. Hunton,Williams, Gay, Powell and Gibson, P.O.Box 1535, Richmond,Virginia,23212; Armand Derfner, Esquire, Lawyers' Committee for Civil Rights Under Law, 520 Woodward Building, 733-15th Street,N.W., Washington, D.C. 20005, counsel for plaintiff-intervenors, William S. Thornton, et al; Andrew P. Miller,Esquire, Attorney General of Virginia, Vann H. Lefcoe, Assistant Attorney General, of counsel for appellants, Joan S. Mahan, et al, Supreme Court-State Library Building, Richmond, Virginia, 23219, and Anthony F. Troy, Esquire, Special Assistant Attorney General, c/o Messrs. Dickstein,

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required to be served have been served.

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